



# PUBLIC NOTICE

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## **DUE DILIGENCE ANNOUNCEMENT FOR THE UPCOMING AUCTION OF LICENSES IN THE LOWER 700 MHz BAND SCHEDULED FOR MAY 28, 2003**

Report No. AUC-03-49-D (Auction No. 49)

This Public Notice provides due diligence information, as of March 7, 2003, for potential bidders in the upcoming auction of licenses in the Lower 700 MHz band C and D blocks (Auction No. 49), scheduled for May 28, 2003.<sup>1</sup> The information provided by this Public Notice is intended to aid potential bidders with their research and evaluation of the spectrum in the Lower 700 MHz band C and D blocks (710-716/740-746 MHz and 716-722 MHz). Potential bidders should thoroughly research the nature and extent of existing and possible broadcast encumbrances in the Lower 700 MHz band C and D blocks (which correspond to TV Channels 54, 55 and 59) as well as on adjacent channels (*e.g.*, channels 53, 56, 58 and 60).

Spectrum in the Lower 700 MHz band is being reclaimed and licensed to new services, in accordance with statutory mandate,<sup>2</sup> as a result of the conversion of television broadcasting from analog to digital transmission systems together with the planned migration of broadcasters into core Channels 2-51. Currently, each television station has been temporarily assigned a second TV channel on which to broadcast its digital signal, while the original channel continues broadcasting the analog signal. Section 309(j) of the Communications Act requires analog broadcasters to cease operation in the recovered spectrum by the end of 2006 unless the Commission extends the end of the transition.<sup>3</sup> However, licensees of new services in the Lower 700 MHz band will be permitted to operate during this transition

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<sup>1</sup> Auction No. 49 will offer 251 C block and five D block licenses in the Lower 700 MHz band that remained unsold in Auction No. 44, which closed on September 18, 2002. *See* Auction Of Licenses in the Lower 700 MHz Band Scheduled for May 28, 2003, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Auction Procedures, *Public Notice*, DA 03-567 (rel. March 4, 2003). A list of winning bidders in Auction No. 44 is contained in a Public Notice released after the closing of that auction. *See* Lower 700 MHz Band Auction Closes, Winning Bidders Announced, Down Payments Due October 4, 2002, FCC Forms 601 and 602 Due October 4, 2002, Ten-Day Petition to Deny Period, *Public Notice*, 17 FCC Rcd 17272 (WTB 2002).

<sup>2</sup> *See* 47 U.S.C. § 309(j).

<sup>3</sup> 47 U.S.C. § 309(j)(14)(A)-(B). As provided in the statute, the Commission is required to extend the end of the transition at the request of individual broadcast licensees on a market-by-market basis if one or more of the four largest network stations or affiliates is not broadcasting in digital, digital-to-analog converter technology is not generally available, or 15 percent or more of television households are not receiving a digital signal. 47 U.S.C. § 309(j)(14)(B)(i)-(iii).

provided they do not interfere with TV or digital television (“DTV”) operations. Potential bidders should familiarize themselves with the policies regarding the transition to DTV.<sup>4</sup>

In the *Lower 700 MHz Report and Order*,<sup>5</sup> the Commission adopted allocation and service rules in connection with the reclamation of the spectrum in the Lower 700 MHz band. The *Lower 700 MHz Report and Order* was the subject of certain petitions for reconsideration; however, in a Memorandum Opinion and Order in the same docket (GN Docket No. 01-74), the Commission subsequently denied these petitions and affirmed its decisions in the *Lower 700 MHz Report and Order*.<sup>6</sup> There are no known matters currently pending relating to GN Docket No. 01-74. Potential bidders are reminded, however, that there may be certain other matters pending before the Commission the resolution of which could affect the availability of spectrum in Auction No. 49. For example, potential bidders should be aware of the Commission’s ongoing *DTV Second Periodic Review* proceeding.<sup>7</sup> Among the issues under consideration in that proceeding is the Commission’s implementation of the 2006 statutory deadline for completion of the DTV transition.<sup>8</sup> Issues of interference protection, rights of incumbent broadcasters to protection, and broadcasters’ ability to modify authorized facilities are discussed in the *DTV Second Periodic Review NPRM*.<sup>9</sup> Such modified facilities may be entitled to interference protection from new Lower 700 MHz band licensees. Furthermore, the Commission recently released a Public Notice seeking comment on a proposal of the National Translator Association (“NTA”) to initiate a rulemaking proceeding to consider whether to establish a “Rural Translator Service.”<sup>10</sup> While the Commission will

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<sup>4</sup> See generally Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268, *Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders*, 14 FCC Rcd 1348 (1998); Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268, *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, 13 FCC Rcd 7418 (1998); Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268, *Memorandum Opinion and Order on Reconsideration of the Fifth Report and Order*, 13 FCC Rcd 6860 (1998); Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268, *Sixth Report and Order*, 12 FCC Rcd 14588 (1997); Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268, *Fifth Report and Order*, 12 FCC Rcd 12809 (1997); Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268, *Sixth Further Notice of Proposed Rule Making*, 11 FCC Rcd 10968 (1996) (collectively “DTV proceeding”); see also Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television, MM Docket No. 00-39, *Report and Order and Further Notice of Proposed Rule Making*, 16 FCC Rcd 5946 (2001), *on recon.*, *Memorandum Opinion and Order on Reconsideration*, 16 FCC Rcd 20594 (2001), *Second Report and Order and Second Memorandum Opinion and Order*, 17 FCC Rcd 15978 (2002), *Third Memorandum Opinion and Order on Reconsideration*, 17 FCC Rcd 18571 (2002).

<sup>5</sup> Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), GN Docket No. 01-74, *Report and Order*, 17 FCC Rcd 1022 (2002) (“*Lower 700 MHz Report and Order*”).

<sup>6</sup> See Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), GN Docket No. 01-74, *Memorandum Opinion and Order*, 17 FCC Rcd 11613 (2002).

<sup>7</sup> See Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion To Digital Television, MM Docket No. 03-15, *Notice of Proposed Rule Making*, FCC 03-8, ¶¶ 57-59 (rel. Jan 27, 2003) (“*DTV Second Periodic Review NPRM*”) (Comments due April 14, 2003; replies due May 14, 2003).

<sup>8</sup> See 47 U.S.C. § 309(j)(14).

<sup>9</sup> See *DTV Second Periodic Review NPRM*, FCC 03-8, ¶¶ 39-62.

<sup>10</sup> See Media Bureau Seeks Comment on National Translator Association’s Petition for Rulemaking to Establish a Rural Translator Service, RM-10666, *Public Notice*, DA 03-622 (rel. Mar. 6, 2003). In addition, the NTA filed a “Request for Declaratory Ruling Concerning Status of Translator Stations and Continuity of Service to

continue to act on any such pending matters, some of these matters may not be resolved before the commencement of Auction No. 49.

Accordingly, potential bidders should be aware that there are a number of incumbent licensees currently authorized to operate in the Lower 700 MHz band C and D blocks (TV Channels 54, 55 and 59) plus adjacent channels (*e.g.*, channels 53, 56, 58 and 60), and that incumbents may have multiple authorizations (*e.g.*, a license and a construction permit (“CP”) or modified CP). These incumbents may also have pending applications to make changes in authorized facilities.

To aid potential bidders with their research, attached to this Public Notice is a list of incumbent licensees, permittees and/or applicants in the Lower 700 MHz band C and D blocks, as of March 7, 2003 (*see Attachments A and B*). This list was generated using the Media Bureau’s licensing database, called the Consolidated DataBase System (“CDBS”). This list is divided into analog television (“NTSC”) records (**Attachment A**) and DTV records (**Attachment B**). Potential bidders may use this list to research additional information about these licensees, permittees and/or applicants, including technical data for specific authorizations or pending applications. This list contains information regarding adjacent channels because new licensees are required to provide interference protection to licensees operating on adjacent channels (*e.g.*, channels 53, 56, 58 and 60). The Commission makes no representations or guarantees that the listed licensees are the only licensees, permittees and/or applicants that could affect spectrum availability or operations in the Lower 700 MHz band C and D blocks.

Potential bidders should be aware that there may be pending applications proposing to modify or establish new NTSC and DTV channels, and should use CDBS to research these applications. Potential bidders should also be aware that there may be pending rulemaking petitions proposing to change or to create new NTSC and DTV allotments.<sup>11</sup> The Media Bureau periodically updates a list of these changes for NTSC at <http://www.fcc.gov/mb/video/files/ntscchan.html> and DTV at <http://www.fcc.gov/mb/video/files/dtvchan.html>. For additional information, contact Nazifa Naim of the Media Bureau at (202) 418-7059, or by e-mail at [nnaim@fcc.gov](mailto:nnaim@fcc.gov).

Potential bidders should also be aware that, in the *Lower 700 MHz Report and Order*, the Commission ordered the dismissal of certain pending petitions for new NTSC channel allotments in the Lower 700 MHz band.<sup>12</sup> In the *Lower 700 MHz Report and Order*, the Commission also ordered the dismissal of certain pending applications for construction permits (some of which also included a petition for modification of an existing allotment); however, the Commission provided a 45-day opportunity for these applicants to request a change in their pending applications for a construction permit or petition for rule making.<sup>13</sup> Some of these proposals have been adopted or dismissed, while others remain pending. During the pendency of their proposals to move to another channel, the proponents’ underlying

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Rural Areas” on July 31, 2003 (seeking a declaration “that translator stations are not secondary services as to new commercial users on Channel 54, 55 and 59 until the digital transition is complete.”)

<sup>11</sup> To review the Table of Allotments for both NTSC and DTV, *see* 47 C.F.R. §§ 73.606 and 73.622, respectively. Potential bidders should be aware that, with respect to the Lower 700 MHz band, digital service in the band could be proposed after the auction by a station with an existing DTV allotment on a channel outside the 52-58 band seeking to move to a channel inside this band or by a DTV station inside this band seeking to move to another channel inside the band. *See DTV Second Periodic Review NPRM*, FCC 03-8, ¶¶ 57-59.

<sup>12</sup> *See Lower 700 MHz Report and Order*, 17 FCC Rcd at 1042 ¶ 44.

<sup>13</sup> *See id.* at 1042 ¶ 45. Applications were permitted to be modified in one of two ways: (1) to provide analog or digital service in the core television spectrum, *i.e.*, channels 2-51, or (2) to provide digital service in the 698-740 MHz band, *i.e.*, channels 52-58.

application records will remain in the CDBS. Proposals to move to DTV operation on a channel in the 53-60 range are in Attachment B with their “service” designated “DM.” Because the pending applications for new NTSC stations will not be granted on these channels, the corresponding CDBS records have not been included in Attachment B. Furthermore, potential bidders should be aware that these decisions are the subject of certain petitions for reconsideration now pending before the Commission, and the staff’s implementation of the Commission’s policy may also be the subject of petitions for reconsideration.

Potential bidders should also be aware of a Public Notice announcing that a freeze has been imposed on the filing of “maximization” applications by incumbent analog and digital television broadcast stations in the 698-746 MHz band.<sup>14</sup> The Public Notice further stated that the Media Bureau would consider, on a case-by-case basis, requests for waiver of this freeze in certain circumstances, pursuant to which incumbent broadcasters may be permitted to make certain changes to their authorized facilities. Potential bidders should be aware that some such waiver requests have been filed and are now pending. For example, such a request was recently filed with respect to KDOC-TV, Anaheim, CA.<sup>15</sup>

**Potential bidders are solely responsible for identifying associated risks, and investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of licenses available in Auction No. 49.**

Potential bidders may obtain information about licenses available in Auction No. 49 through CDBS on the Internet at [http://svartifoss2.fcc.gov/prod/cdb/pubacc/prod/cdb\\_pa.htm](http://svartifoss2.fcc.gov/prod/cdb/pubacc/prod/cdb_pa.htm) or at <http://www.fcc.gov/mb/> (by using the “MB Shortcuts” drop down menu and selecting the “CDBS Access” listing located under the section entitled “Filing & Data”). Potential bidders may query the database online and download a copy of their search results if desired. Potential bidders may search for station information (at [http://svartifoss2.fcc.gov/prod/cdb/pubacc/prod/sta\\_sear.htm](http://svartifoss2.fcc.gov/prod/cdb/pubacc/prod/sta_sear.htm)) and/or application information (at [http://svartifoss2.fcc.gov/prod/cdb/pubacc/prod/app\\_sear.htm](http://svartifoss2.fcc.gov/prod/cdb/pubacc/prod/app_sear.htm)). The database searches return either station or application data. The application search provides an application link that displays the complete electronically-filed application in application format. An AL/TC search under the application search link permits searching for Assignment of License/Transfer of Control groups using the AL/TC group lead application. In conducting database searches with respect to a given facility, it is recommended to use that station’s “facility I.D. number” (the unique integer number – assigned by the Media Bureau – that identifies a station). Potential bidders may also search for ownership information and antenna information, and may download engineering data. Detailed instructions on using the CDBS is available online at [http://svartifoss2.fcc.gov/prod/cdb/pubacc/prod/help\\_pa.htm](http://svartifoss2.fcc.gov/prod/cdb/pubacc/prod/help_pa.htm) or by clicking on the “Help” file. Potential bidders should direct questions regarding the search capabilities of CDBS to the Media Bureau help line at (202) 418-2662, or via e-mail at [mbinfo@fcc.gov](mailto:mbinfo@fcc.gov).

The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases, including the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the databases. **Potential bidders are strongly encouraged to physically inspect any sites located in, or near, the geographic area for which they plan to bid.**

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<sup>14</sup> See Freeze on the Filing of TV and DTV “Maximization” Applications in Channels 52-59, *Public Notice*, 17 FCC Rcd 11290 (MB 2002).

<sup>15</sup> See Golden Orange Broadcasting, Co., Inc.’s Request for Waiver of “Freeze,” Modification of Construction Permit Application to station KDOC-TV, Anaheim, CA (Fac. I.D. No. 24518), File No. BMPCT-20030226AAY, filed on Feb. 26, 2003.

For further information, contact Melvin Spann, at (202) 418-1333, Room 4-C110, Licensing and Technical Analysis Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, 445 12<sup>th</sup> Street, SW, Washington, DC 20554; or Gordon Godfrey, at (202) 418-2193, Room 4-C458, Engineering Division, Media Bureau, 445 12<sup>th</sup> Street, SW, Washington, DC 20554; or Evan Baranoff, at (202) 418-7142, Room 4-B555, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, 445 12<sup>th</sup> Street, SW, Washington, DC 20554.